

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FRACTUS, S.A.

v.

ADT LLC d/b/a ADT SECURITY
SERVICES

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CASE NO. 2:22-cv-00412-JRG

**MINUTES FOR PRETRIAL CONFERENCE
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP
July 2, 2024**

OPEN: 09:00 AM

ADJOURN: 02:08 PM

ATTORNEYS FOR PLAINTIFF:

See attached

ATTORNEYS FOR DEFENDANT:

See attached

LAW CLERK:

Brendan McLaughlin

COURT REPORTER:

Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY:

Andrea Brunson, CP

<u>TIME</u>	<u>MINUTE ENTRY</u>
09:00 AM	Court opened.
09:01 AM	Court called for announcements from counsel.
09:02 AM	Court provided instructions and housekeeping matters to the parties. Case is currently set number one for jury selection and trial on Monday, July 8, 2024. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. <i>Voir dire</i> : 30 minutes per side. The parties will be given 11 hours per side for the jury trial portion. Opening statements: 30 minutes per side. Closing arguments: 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes that might come up during trial. Deposition-clip objections and/or disputes are to be taken up by the Court the day before the day such deposition is to be used. Deposition clips should be accompanied by closed-captioning. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to

<u>TIME</u>	<u>MINUTE ENTRY</u>
	bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and both parties have rested. Court will conduct an informal charge conference (off the record) in chambers after the close of evidence. Formal charge conference will follow thereafter and on the record. Court reminded counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Court instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Court instructed the parties to refer to the Court's Standing Order re: number and use of pre-admitted exhibits. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 4:00 PM tomorrow (July 3). Notebooks to contain: Complete copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. Expert report notebooks to be delivered to chambers by 4:00 PM tomorrow (July 3) containing printed copies of each updated report (single-sided). Also, a digital copy be furnished to the Court.
09:15 AM	Court began hearing argument re: the following disputed dispositive motions:
09:15 AM	[SEALED] Defendant's Motion for Summary Judgment of Noninfringement (Dkt. No.138).
09:16 AM	Mr. Zeliger presented argument for Defendant.
09:21 AM	Responsive argument by Mr. Smyser for Plaintiff.
09:34 AM	Rebuttal argument by Mr. Zeliger for Defendant.
09:35 AM	Court DENIED Dkt. No. 138.
09:37 AM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Defendant's Motion to Exclude the Testimony and Opinions of Robert Mills (Dkt. No. 137).
09:38 AM	Mr. Zeliger presented argument for Defendant.
09:45 AM	Responsive argument by Mr. Nelson for Plaintiff.
09:53 AM	Rebuttal argument by Mr. Zeliger for Defendant.
09:53 AM	Court made rulings as set forth in the record re: Dkt No. 137.
09:58 AM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Plaintiff's Motion for Leave to Supplement Expert Damages Report of Robert Mills (Dkt. No. 212).
09:58 AM	Courtroom sealed.
09:58 AM	Mr. Nelson presented argument for Plaintiff.
10:10 AM	Responsive argument by Mr. Zeliger for Defendant.
10:12 AM	Court made rulings as set forth in the record re: Dkt. No. 212.
10:16 AM	Courtroom unsealed.

TIME	MINUTE ENTRY
10:15 AM	Court addressed Defendant's filing re: <ul style="list-style-type: none"> • [SEALED] Emergency Motion for Leave to Challenge Mr. Mills' Supplemental Expert Report and, Subject to That, Emergency Motion to Exclude Mr. Mills' Supplemental Expert Report and Opinions Therein (Dkt. No. 219).
10:16 AM	Mr. Zeliger provided explanation on behalf of Defendant.
10:20 AM	Mr. Nelson took no position on behalf of Plaintiff.
10:21 AM	Court imposed penalty as set forth in the record.
10:22 AM	Mr. Zeliger presented argument on behalf of Defendant re: issues remaining re: Dkt. No. 219.
10:23 AM	Responsive argument by Mr. Nelson for Plaintiff.
10:24 AM	Court made rulings as set forth in the record re: issues remaining re: Dkt. No. 219.
10:25 AM	Court heard collective argument re: <ul style="list-style-type: none"> • [SEALED] Plaintiff's Corrected Motion to Strike Opinions of Dr. Martin Feuerstein (Dkt. No. 140); • [SEALED] Plaintiff's Corrected Motion to Strike Opinions of Dr. Manos Tentzeris (Dkt. No. 141); • [SEALED] Plaintiff's Corrected Motion to Strike Opinions of Mr. Jeffrey S. Andrien (Dkt. No. 142).
10:26 AM	Mr. Grinstein presented argument for Plaintiff.
10:44 AM	Responsive argument by Ms. Acharya for Defendant.
10:57 AM	Rebuttal argument by Mr. Grinstein for Plaintiff.
10:59 AM	Court made rulings as set forth in the record re: Dkt. Nos. 140, 141 and 142.
11:06 AM	Conclusion of argument re: dispositive motions.
11:06 AM	Court proceeded to hear argument re: parties' remaining objections to MILs:
11:07 AM	Plaintiff's opposition to Defendant's MILs:
11:07 AM	Defendant's MIL 1: Argument presented.
11:11 AM	Court DENIED with instructions as set forth in the record.
11:12 AM	Defendant's MIL 2: Argument presented.
11:15 AM	Court GRANTED with instructions as set forth in the record.
11:20 AM	Defendant's MIL 3: Argument presented.
11:21 AM	Court GRANTED with instructions as set forth in the record.
11:21 AM	Defendant's opposition to Plaintiff's MILs:
11:21 AM	Plaintiff's MIL 1: Argument presented.
11:25 AM	Court GRANTED with instructions as set forth in the record.
11:27 AM	Plaintiff's MIL 3: Argument presented.
11:30 AM	Court GRANTED with instructions as set forth in the record.
11:31 AM	Plaintiff's MIL 4: Argument presented.
11:36 AM	Court DENIED with instructions as set forth in the record.
11:37 AM	Plaintiff's MIL 5: Argument presented.
11:46 AM	Court GRANTED with instructions as set forth in the record.
11:47 AM	Mr. Ward on behalf of Plaintiff raised with the Court MIL 13 of the Court's Standing Order on MILS. Response provided by Mr. Zeliger on behalf of Defendant.
11:49 AM	Court made rulings re: MIL 13 as set forth in the record.
11:50 AM	Conclusion of argument re: MILs.

<u>TIME</u>	<u>MINUTE ENTRY</u>
11:50 AM	Court to recess for lunch. Court directed the parties to actively engage in discussion re: unresolved exhibit disputes.
11:52 AM	Recess for lunch.
01:43 PM	Court reconvened.
01:43 PM	Court was provided an update re: meet and confer efforts.
01:43 PM	Resolution reached by the parties re: narrowing of exhibit disputes and recited into the record by Ms. Acharya on behalf of Defendant and Mr. Smyser on behalf of Plaintiff.
01:47 PM	Court began hearing argument re: objections to remaining exhibits.
01:47 PM	Argument presented.
02:00 PM	Court made rulings as set forth in the record.
02:04 PM	Mr. Smyser presented argument for remaining disputed Exhibit PX 23.
02:04 PM	Court pre-admitted Exhibit PX 23.
02:05 PM	Argument re: disputes re: pre-admission of exhibits concluded.
02:05 PM	Completion of pretrial process.
02:07 PM	Off the record.
02:07 PM	On the record.
02:08 PM	Court adjourned.